

AB

CIVIL COVER SHEET

19-cv-1467

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

*Jon Frey
3049 Almond St
Phila PA 19134*

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Philadelphia

DEFENDANTS

*Ethos Data Management
4512 N Flager Drive - Suite 306
Apt 1000 West Palm Beach, FL 33407*

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY) *Palm Beach County*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

*Jon Taylor
1617 JFK Blvd - Suite 1438
Phila PA 19103*

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PTF | DEF | PTF | DEF |
|--|---|----------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> 1 Citizen of This State | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 Citizen of Another State | <input checked="" type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| <input type="checkbox"/> 3 Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions

Click here for: Nature of Suit Code Descriptions.

- | |
|---|
| <input type="checkbox"/> 375 False Claims Act |
| <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) |
| <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 480 Consumer Credit |
| <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 850 Securities/Commodities/ Exchange |
| <input checked="" type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 896 Arbitration |
| <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 950 Constitutionality of State Statutes |

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V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

TCPA 47 USC 237

Brief description of cause:

Telephone Robocalls

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4-5-19

SIGNATURE OF ATTORNEY OR RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

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DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____ 3049 Almond Street, Philadelphia, PA 19134

Address of Defendant: _____ 4512 N. Flagler Dr. Ste. 306 West Palm Beach, Florida 33407

Place of Accident, Incident or Transaction: _____ By telephone call to my private telephone

RELATED CASE, IF ANY:

Case Number: _____

Judge: _____

Date Terminated: _____

Civil cases are deemed related when Yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: 11/26/2018 4-5-19

Attorney-at-Law / Pro Se Plaintiff

202792 Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): TCPA, 47 USC 227

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Jon Taylor, counsel of record or pro se plaintiff, do hereby certify: Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs: Relief other than monetary damages is sought.DATE: 4-5-19

Attorney-at-Law / Pro Se Plaintiff

202792

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

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AB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

Jan Frey

CIVIL ACTION

v.

19 1467

Ethos Data Management Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks.

4-5-19
Date

~~Attorney-at-law~~
215-475-5798

Telephone

FAX Number

Plaintiff
Attorney for
j.taylor@jontaylorlaw.com
E-Mail Address

\$460
AB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Jon Frey
3049 Almond Street
Philadelphia, PA 19134

Plaintiff

Vs

Ethos Data Management, Inc
4512 N. Flager Drive
Suite 306
West Palm Beach, Florida 33407

Defendant.

Civil Action No

19 1467

Jury trial Demanded

Complaint

Plaintiff Jon Frey bring this action for damages, restitution, reinstatement, statutory damages, punitive damages, sanctions, interest, court costs, and injunctive relief under rights pursuant to Federal Statute 47 U.S.C. 227, and 47 C.F.R. 64 for the *ultra vires* illegal actions and deliberate and knowing tortious activity of Ethos Management, Inc for negligently and/or willfully contacting Plaintiff Jon Frey via Plaintiff Jon Frey's telephone to solicit sales ("Sales Calls"), by utilization of an automatic telephone dialing system, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et. seq.* and related claims that form part of the same claim or controversy. Plaintiff demands a trial by jury, and complains and alleges as follows:

Introduction

1. Defendant Ethos Data Management, Inc is a company located and domestically incorporated in the State of California. EDM does business under the name of "Ethos Data Management, Inc". Defendant Ethos Data Management, Inc markets, and sells, *inter alia*, internet marketing and consulting services to individuals throughout Pennsylvania and other states in the

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United States of America and its principal mailing address is located at 4512 N. Flager Drive, West Palm Beach, Florida 33407.

2. Plaintiff Jon Frey brings this action to challenge Defendant Ethos Data Management, Inc's practices in the telephone solicitations by which it markets its products and services by making illegal telephone solicitations using an automatic telephone dialing system and robocalls, and failure to maintain a Do-Not-Call policy or list in connection therewith.

3. All the claims asserted herein arise out of Defendant Ethos Data Management, Inc.'s illegal telephone solicitation campaign.

Jurisdiction and Venue

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331, in that Defendant Ethos Data Management, Inc conduct business in, and a substantial part of the events giving rise to Plaintiff Jon Frey's claims occurred in the City of Philadelphia, Philadelphia County, Commonwealth of Pennsylvania, which is situated within this judicial district pursuant to 28 U.S.C. § 118.

Parties

6. Plaintiff Jon Frey ("Plaintiff") is an adult citizen of the Commonwealth of Pennsylvania with a mailing address at 3049 Almond Street, Philadelphia, PA 19134.

7. Defendant Ethos Data Management, Inc ("EDM") is a company located and domestically incorporated in the State of Florida.

Factual Information

8. In or about August 3, 2018, Plaintiff¹ received a phone call made by EDM using an

¹ Plaintiff is a "person" as defined by 47 U.S.C. §159(39)

automated telephone dialing system (“Prerecorded Robocall”) or robocall by EDM and/or its agents at Plaintiff’s telephone number 215-634-XXXX, which has been on the do not call list since August 28, 2003.

9. The robocall placed by EDM’s Prerecorded Robocall on August 3, 2018 was a pre-recorded message, lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that of a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested from EDM prior to August 3, 2018.

10. In or about August 7, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents at Plaintiff’s telephone number 215-634-XXXX.

11. The robocall placed by EDM’s Prerecorded Robocall on August 7, 2018 was a pre-recorded message, lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall . Based on information and belief, the sole purpose of said robocall was that of a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested from EDM prior to August 7, 2018.

12. In or about August 8, 2018, Plaintiff received two phone calls made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff’s telephone number 215-634-XXXX.

13, The two robocalls placed by EDM’s PRERECODED ROBOCALL on August 8, 2018 were a pre-recorded

messages, lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that of a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested from EDM prior to August 8, 2018.

13. In or about August 9, 2018, Plaintiff received two phone calls made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

14. The two robocalls placed by EDM's Prerecorded Robocall on August 9, 2018 were pre-recorded messages, lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall . Based on information and belief, the sole purpose of said robocall was that of a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested from EDM prior to August 9, 2018.

15. On or about August 10, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

16. The robocall placed by EDM's Prerecorded Robocall on August 10, 2018 was a prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested from EDM prior to August 10, 2018.

17. On or about August 14, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

18. The robocall placed by EDM's Prerecorded Robocall on August 14, 2018 was a prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 14, 2018.

19. On or about August 15, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

20. The robocall placed by EDM's Prerecorded Robocall on August 15, 2018 was a prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 15, 2018.

21. On or about August 17, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

22. The robocall placed by EDM's Prerecorded Robocall on August 17, 2018 was a

prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 17, 2018.

23. On or about August 21, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

24. The robocall placed by EDM's Prerecorded Robocall on August 21, 2018 was a prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 21, 2018.

25. On or about August 23, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

26. The robocall placed by EDM's Prerecorded Robocall on August 23, 2018 was a prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 23, 2018.

27. On or about August 24, 2018, Plaintiff received a phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

28. The robocall placed by EDM's Prerecorded Robocall on August 24, 2018 was a prerecorded message lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall. Based on information and belief, the sole purpose of said robocall was that a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 24, 2018.

29. On or about August 24, 2018, Plaintiff received two phone call made by EDM using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

30. The robocalls placed by EDM's Prerecorded Robocall on August 24, 2018 were prerecorded messages lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocalls. Based on information and belief, the sole purpose of said robocalls were that of a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested prior to August 24, 2018,

31. On August 27, 2018. Plaintiff received a phone call made by EDMS using an Prerecorded Robocall or robocall by EDM and/or its agents as Plaintiff's telephone number 215-634-XXXX.

32. The robocall placed by EDM's Prerecorded Robocall on August 27, 2018

were a pre-recorded message, lacking personalization, scripted in nature, clearly intended to be sent *en masse* to thousands of persons on or about the same date and time that Plaintiff received said robocall . Based on information and belief, the sole purpose of said robocall was that of a business solicitation by EDM designed to market internet marketing services of which the Plaintiff never requested from EDM prior to August 27, 2018.

33. Plaintiff responded to the call made on August 27, 2018 and determined that the call was sent by EDM via an Prerecorded Robocall system and sent a written communication to EDM requesting not to be called back.

34. All calls mentioned herein were clearly made using an Prerecorded Robocall because of the telltale click and delay of each prerecorded message.

35. Plaintiff was harmed by the calls. He was temporarily deprived of legitimate use of his phone because his phone line was tied up, it used up his minutes, he wasted energy and stress in answering a call or calls, his telephone batteries and electricity were depleted, he was charged per minute for the calls because the number was provided via a voice over IP service, and his privacy was improperly invaded. Moreover, the calls injured Plaintiff because they were frustrating, obnoxious, annoying, were a nuisance and disturbed the solitude of the Plaintiff.

36. Plaintiff adequately confirmed corporate identity for each and every call so as to establish liability of EDM, as more fully outlined above.

37. These telephone solicitations constituted “calls” under the TCPA that were not for emergency purposes.

38. Plaintiff did not provide any one, more, or all EDM, nor any agent of EDM, prior

written consent, or any other form of consent, express or implied, to cause Plaintiff to receive telephone calls on his telephone that utilized an “automatic telephone dialing system” or otherwise to transmit a message or make calls.

39. As a point of fact, to the extent that “consent” was supplied during the calls, that was done in order to discover the identity of the caller and for no other reason and Plaintiff never gave consent prior to any call from EDM.

40. Plaintiff had no prior business relationship with EDM or any agent of EDM.

41. The telephone sales calls thereof violated 47 U.S.C. § 227(b)(1)(A), 47 U.S.C. § 227(c)(3)(F), 47 CFR 64.1200(d)(1), 47 CFR 64.1200(d)(3), 47 CFR § 64.1200(a)(1)(iii), and 47 CFR § 64.1200(a)(1).

CAUSES OF ACTION

First Cause of Action

(Negligent Violation of the TCPA “PRERECORDED ROBOCALL” Prohibition, 47 U.S.C. § 227 et. seq.)

42. Plaintiff incorporates and re-alleges, as though fully set forth herein, each of the paragraphs above.

43. As a result of EDM’s and EDM’s agents negligent violations of 47 U.S.C. § 227(b)(1)(A), Plaintiff seeks for himself \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

44. Pursuant to 47 U.S.C. §227(b)(3)(A), Plaintiff seeks injunctive relief prohibiting such conduct in the future.

Second Cause of Action

(Knowing and Willful Violation of the TCPA “PRERECORDED ROBOCALL” Prohibition, 47 U.S.C. § 227 et. seq.)

45. Plaintiff incorporates and re-alleges, as though fully set forth herein, each of the paragraphs above.

46. As a result of EDM's and EDM's knowing and/or willful violations of 47 U.S.C. §227(b)(1)(A), Plaintiff seeks for himself damages, as provided by statute, up to \$1,500.00 for each and every violations, pursuant to 47 U.S.C §227(b)(3).

47. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief prohibiting such conduct in the future.

WHEREFORE, Plaintiff prays for relief against Defendant as follows:

On Cause of Action 1-2:

1. For awards of \$500 for each negligent violation as set forth in actions 1-8;
2. For awards of \$1,500.00 for each knowing/willful violation as set forth in actions 1-8;
3. Injunctive relieve against EDM to prevent future wrongdoing, total damages;
4. Punitive damages to punish EDM for willful, illegal and deliberate tortious conduct and to Deter others who may otherwise engage in similar willful illegal and deliberate tortious conduct;
5. Prejudgment interest at the maximum legal rate;
6. Costs of suit herein incurred; and
7. All such other and further relief as the Court deems proper.

Plaintiff hereby demands a trial by jury on all claims so triable.

By:

Jon Taylor, Esquire
Attorney for Plaintiff
The Law Offices of Jon Taylor, Esquire, PC
1617 JFK Blvd - Suite 1838
Philadelphia, PA 19103
(P) 215-687-4443
(F) 215-475-5798
jtaylor@jontaylorlaw.com

Date: April 2, 2019

VERIFICATION

I Jon Frey verify that I am authorized to execute this Verification on behalf of myself and that the averments made in the foregoing documents are true and correct to the best of my knowledge, information, and belief.

Dated: 4/2/2019

BY:

Jon Frey

